©
Government of Kerala
1979

Reg. No. KL/TV/12

# KERALA GAZETTE

## EXTRAORDINARY

## PUBLISHED BY AUTHORITY

Vol. XXIV] Trivandrum, Saturday, 22nd September 1979 / 31st Bhadra 1901 [No. 676

## UNIVERSITY OF CALICUT

### NOTIFICATION

No. Pl. D. E2/5490/79.

*22nd September 1979.*

**Election of Members from the Board of Studies to the Faculties**

Whereas it is necessary to reconstitute the various faculties of the University under section 26 of the Calicut University Act 5 of 1975, it is hereby notified that an election under section 26 (3) (b) of the above Act will be held according to the principle of proportional representation by means of single transferable vote and in accordance with the procedure laid down in the first statute on Elections of the University of Calicut 1975, to elect two members each from the following Boards of Studies to the concerned Faculties of the University.

I. 1. Mathematics Pass. 2. Mathematics P. G. 3. Physics Pass. 4. Physics P. G. 5. Chemistry Pass. 6. Chemistry P. G. 7. Botany Pass. 8. Botany P. G. 9. Zoology Pass. 10. Zoology P. G. 11. Ayurveda. 12. Arabic Pass. 13. Arabic P. G. 14. Commerce Pass. 15. Commerce P. G. 16. Engineering Pass. 17. Engineering P. G. 18. Education Pass, 19. Education P. G. 20. English Pass 21. English P. G. 22. European Languages. 23. Economics Pass 24. Economic P. G. 25. Geography. 26. Geology. 27. Home Science. 28. Hindi Pass. 29. Hindi P. G. 30. History Pass. 31. History P. G. 32. Islamic Studies, 33. Journalism. 34. Kannada. 35. Law Pass. 36. Law P. G. 37. Malayalam Pass. 38. Malayalam P. G. 39. Philosophy Pass. 40. Philosophy P. G. 41. Politics. 42. Sanskrit Pass. 43. Sanskrit P. G.

44. Statistics. 45. Sociology Pass. 46. Sociology P. G. 47. Tamil. 48. Urdu. 49. Medicine Pass. 50. Medicine P. G. 51. Library Science. 52. Nursing. 53. Psychology Pass and P. G. 54. Music. 55. Drama. 56. Life Science.

The following programme for the conduct of election is therefore notified as per statute 34 of the statutes on Elections.

| | |
|---|---|
| 1. Date of notification | Saturday, 22-9-1979 |
| 2. Last date for receipt of nominations | Thursday, 18-10-1979 (Before 3 p.m.) |
| 3. Scrutiny of nominations and publication of validly nominated candidates | Monday 22-10-1979 11 a.m. at the University Office |
| 4. Last date and hour for withdrawal of candidature | Monday, 29-10-1979 (11 a.m.) |
| 5. Date of publication of final list of candidates | Monday, 29-10-1979. |
| 6. Date of issue of ballot papers | Wednesday, 7-11-1979. |
| 7. Date and hour fixed for the poll | The election papers shall be returned to the Registrar & Returning Officer so as to reach him not later than 5 p.m. on Monday 26th November 1979. |
| 8. Date and hour of scrutiny and counting of votes | Tuesday, 27-11-1979, at 11 a.m. at the University Office. |

Nominations in the prescribed form, which can be had free of cost from the Returning Officer, on application by any elector whose name is in the electoral roll, shall reach the Registrar, University of Calicut, Calicut University P. O. between the hours of 11'o clock in the forenoon and 3'o clock in the afternoon on any working day not later than Thursday, ***18-10-1979***.

(Sd.)

*Registrar & Returning Officer.*

C. U. Campus.

Calicut University P. O.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1979.

©
Government of Kerala
1979

Reg. No. KL/TV/12

# KERALA GAZETTE
## EXTRAORDINARY
### PUBLISHED BY AUTHORITY

Vol. XXIV] Trivandrum, Saturday, 22nd September 1979 / 31st Bhadra 1901 [No. 678

## SECRETARIAT OF THE KERALA LEGISLATURE

### NOTIFICATION

No. 6752/LA4/79. *Dated, Trivandrum, 22nd September* 1979.

The Kerala Payment of Arrears of Rent in Instalments Bill, 1979 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
*Secretary,*
*Legislative Assembly.*

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1979.

33/3444/MC

**Fifth Kerala Legislative Assembly**

**Bill No. 126**

# THE KERALA PAYMENT OF ARREARS OF RENT IN INSTALMENTS BILL, 1979

*A*

*BILL*

*to provide for instalment facility for the payment of arrears of rent and for matters incidental thereto.*

*Preamble.*—WHEREAS it is expedient to provide for instalment facility for the payment of arrears of rent and for matters incidental thereto;

BE it enacted in the Thirtieth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Payment of Arrears of Rent in Instalments Act, 1979.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 19th day of July, 1979.

2. *Definitions.*—In this Act, unless the context otherwise requires, the expressions "cultivating tenant", "holding", "improvement", "Land Tribunal", "rent" and "tenant" shall have the meanings respectively assigned to them in the Kerala Land Reforms Act, 1963 (1 of 1964).

3. *Payment of arrears of rent in instalments.*—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, custom or usage, or in any decree or order of any court or Land Tribunal, all arrears of rent accrued due before the 1st day of January, 1970 and outstanding at the commencement of this Act shall be deemed to be fully discharged if such arrears together with the interest, if any, due thereon at such commencement are paid in four equal quarterly instalments as provided in sub-section (2).

*Explanation.*—For the purposes of this sub-section, arrears of rent accrued due from a tenant before the 1st day of May, 1968, shall be deemed to be the amount which his landlord is entitled to recover from him under section 73 of the Kerala Land Reforms Act, 1963 (1 of 1964).

(2) The first instalment shall be paid on or before the expiry of three months from the commencement of this Act and each of the remaining

instalments shall be paid on or before the expiry of a period of three months from the last day on which the previous instalment was due.

(3) The instalments payable under sub-section (2) shall be paid, or deposited, in the court or Land Tribunal before which proceedings for recovery of the arrears of rent are pending, or, where no such proceedings are pending, in such court or Tribunal as may be specified by the Government in this behalf, for payment to the person entitled thereto.

4. *Stay of suits, applications, etc., for arrears of rent.*—Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, custom or usage, or in any judgment, decree or order of any court or Land Tribunal, with effect on and from the commencement of this Act,—

(a) no suit or application or other proceedings for recovery of arrears of rent referred to in section 3; or

(b) no application for, or proceedings in, execution of a decree or order for the recovery of such arrears of rent, or other application or proceedings incidental or ancillary thereto,

shall lie in any court or Land Tribunal and all such suits, applications, and other proceedings pending in any court or Land Tribunal at such commencement shall stand stayed.

5. *Restoration of possession.*—(1) Notwithstanding anything to the contrary contained in any other law or in any judgment, decree or order of any court or Land Tribunal, where any holding has been sold in execution of a decree or order for arrears of rent referred to in section 3, and the cultivating tenant dispossessed of the holding before the commencement of this Act, such cultivating tenant shall, subject to the provisions of this section, be entitled to restoration of possession of the holding.

(2) Any person entitled to restoration of possession of his holding under sub-section (1) may within a period of three months after payment of the instalments of rent as provided in sub-section (2) of section 3, apply to the court or Land Tribunal, as the case may be, which passed the decree or order for setting aside the same and for restoration of possession of his holding.

(3) The court or the Land Tribunal, as the case may be, may, after such inquiry as it deems fit, pass an order allowing the application for restoration and directing the applicant to deposit the compensation, if any, received by the applicant under any decree or order of the court or Land Tribunal towards value of improvements or otherwise and the value of improvements, if any, effected on the land after dispossession as may be determined by the court or Land Tribunal, within such period as may be specified in the order.

(4) On receipt of the compensation and value of improvements, as required in the order under sub-section (3), the court or the Land Tribunal as the case may be, shall restore the applicant to possession of the land, if need be, by removing any person who refuses to vacate the same.

6. *Tenants failing to pay instalments in time not entitled to benefits.*—Any tenant who fails to pay any instalment as provided in sub-section (2) of section 3 on or before the due date shall not be entitled to any benefit conferred by this Act.

7. *Limitation.*—In computing the period of limitation for the institution of suits, applications or other proceedings, prohibited or stayed under this Act, the time during which such suits, applications or other proceedings are prohibited or stayed under this Act shall be excluded.

8. *Act not to apply to certain class of tenants.*—Nothing contained in this Act shall apply in respect of arrears of rent due from a tenant who is a debtor as defined in clause (4) of section 2 of the Kerala Debt Relief Act, 1977 (17 of 1977).

9. *Repeal and saving.*—(1) The Kerala Payment of Arrears of Rent in Instalments Ordinance, 1979 (10 of 1979), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

## STATEMENT OF OBJECTS AND REASONS

Representations have been received by Government for cancellation of arrears of rent due from the tenants. All these years the arrears of rent have been threatening the tenants with dispossession of holdings. A large number of tenants have been dispossessed of their holdings for non-payment of arrears of rent and thousands of applications are pending with the Land Tribunals for recovery of such arrears. Taking into account the magnitude of the problem, Government considered it necessary to give some relief to the tenants from dispossession of their holdings. For this purpose, it was proposed to stay proceedings for recovery of arrears of rent, to give instalment facilities to the tenants to repay the arrears of rent and to provide for the restoration of possession of the holdings already sold for realisation of rent.

2. Since the Legislative Assembly was not in session and the proposal had to be given effect to immediately, the Kerala Payment of Arrears of Rent in Instalments Ordinance, 1979 (10 of 1979), was promulgated by the Governor on the 17th day of July, 1979.

3. The Bill seeks to replace the Ordinance by an Act of the Legislature.

## FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation would not involve any expenditure from the Consolidated Fund of the State.

BABY JOHN

©
Government of Kerala
1979

Reg. No. KL/TV/12

# KERALA GAZETTE

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIV] Trivandrum, Saturday, 22nd September 1979 / 31st Bhadra 1901 [No. 679

## SECRETARIAT OF THE KERALA LEGISLATURE

### NOTIFICATION

No. 6753/LA4A/79. *Dated, Trivandrum, 22nd September* 1979.

The Kerala Land Reforms (Amendment) Bill, 1979 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
*Secretary,*
*Legislative Assembly.*

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1979.

33/3446/MC.

**Fifth Kerala Legislative Assembly**

**Bill No. 127**

# THE KERALA LAND REFORMS (AMENDMENT) BILL, 1979

*A*

*BILL*

*further to amend the Kerala Land Reforms Act,* 1963.

*Preamble.*—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Thirtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Land Reforms (Amendment) Act, 1979.

(2) It shall be deemed to have come into force on the 7th day of July 1979.

2. *Amendment of Section* 2.—In section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), in sub-clause (c) of clause (44), after the words "Land Board", the words "or the Taluk Land Board, as the case may be" shall be inserted.

3. *Insertion of new section* 6 C.—After Section 6B of the principal Act, the following section shall be inserted, namely:—

"6C. *Certain lessees who have made substantial improvements, etc. to be deemed tenants.*—Notwithstanding anything contained in section 74, or in any contract, or in any judgment, decree or order of any court or other authority, any person in occupation at the commencement of the Kerala Land Reforms (Amendment) Act, 1969, of the land of another person on the basis of a lease deed executed after the 1st day of April, 1964, shall be deemed to be a tenant if—

(a) he (including any member of his family) did not own or hold land in excess of four acres in extent on the date of execution of the lease deed; and

(b) he or any member of his family has made substantial improvements on the land.

*Explanation.*—For the purposes of this section, improvements shall be deemed to be substantial improvements if the value of such improvements is

33/3446/MC.

more than fifty per cent of the value of the land on the date of execution of the lease deed.".

4. *Amendment of Section* 19.—In section 19 of the principal Act, after the words "Land Board", the words "or the Taluk Land Board, as the case may be," shall be inserted.

5. *Amendment of Section* 26.—In section 26 of the principal Act, for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) The person liable to pay the amount determined under sub-section (2) shall deposit the same with the Land Tribunal which determined the amount within a period of six months from the date of such determination.

(3A) In the event of the failure to deposit the amount referred to in sub-section (3) within the time specified in that sub-section, such amount shall, on a written requisition from the Land Tribunal to the District Collector, be recovered under the provisions of the Kerala Revenue Recovery Act, 1968, together with interest at the rate of six per cent per annum from the date of determination of the amount under sub-section (2).".

6. *Amendment of Section* 27.—In section 27 of the principal Act, *Explanation II* shall be, and shall be deemed to have been, renumbered as *Explanation III* with effect on and from the 1st day of January, 1970 and before that *Explanation* the following *Explanation* shall be, and shall be deemed to have been, inserted with effect on and from the said date, namely:—

"*Explanation II.*—Where in respect of a holding there is a stipulation in the contract of tenancy for the payment of interest by the transferor to the transferee on the consideration paid by, or due to, the transferee, or for the payment by the transferee of land tax due to the Government or any tax or cess due to a local authority, the contract rent of that holding shall, for the purpose of this section, be calculated after deducting such interest, tax and cess.".

7. *Amendment of section* 63.—In section 63 of the principal Act, to sub-section(7), the following proviso and *Explanation* shall be added, namely:—

"Provided that if such person has, in accordance with the rules madei n this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

*Explanation.*—For the purposes of the preceding proviso, "member of family" means wife or husband, son or daughter.".

8. *Amendment of section* 72H.—In section 72H of the principal Act, to sub-section (8), the following proviso and *Explanation* shall be added, namely:–

"Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

*Explanation*.—For the purposes of the preceding proviso, "member of family" means "wife or husband, son or daughter.".

9. *Amendment of section* 72I.—In section 72I of the principal Act,—

(1) to sub-section (3), the following proviso shall be added, namely:—

"Provided that where the amount of compensation mentioned in the application as due to the applicant is not more than the amount of compensation determined by the Land Board it shall not be necessary to give the applicant an opportunity of being heard.";

(2) in sub-section (5) for the words " on the date of expiry", the words "before the date of expiry" shall be substituted.

10. *Amendment of section* 80*E*.—In section 80E of the principal Act, to sub-section (6), the following proviso and *Explanation* shall be added, namely:—

"Provided that if such person has, in accordance with the rules made in this behalf, nominated any member of his family to receive the amount, the same shall be paid to such nominee.

*Explanation*.—For the purposes of the preceding proviso, "member of family" means "wife or husband, son or daughter.".

11. *Amendment of section* 84.—After sub-section (1) of section 84 of the principal Act, the following sub-section shall be, and shall be deemed to have been, inserted with effect on and from the 1st day of January, 1970, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), or in any judgment, decree or order of any court or other authority, any voluntary transfer effected by means of a gift deed executed during the period commencing on the 1st day of January, 1970 and ending with the 5th day of November, 1974, by a person owning or holding land in excess of the ceiling area in favour of his son or daughter or the son or daughter of his predeceased son or daughter shall be not deemed to be, or ever to have been, invalid—

(a) if the extent of the land comprised in the gift does not exceed the ceiling area specified in clause (a) of sub-section (1) of section 82; and

(b) if the extent of the land comprised in the gift exceeds the ceiling area specified in the said clause, to the extent of that ceiling area:

Provided that nothing contained in this sub-section shall apply—

(a) to a transfer in favour or a person who was an unmarried minor on the 1st day of January, 1970;

(b) in respect of any land which has been assigned on registry under section 96, before the commencement of the Kerala Land Reforms (Amendment) Act 1979.".

12. *Amendment of section* 85.—In section 85 of the principal Act, the following sub-sections shall be inserted at the end, namely:—

"(10) Any person who, by virtue of the provisions of sub-section (1A) of section 84, is entitled to the restoration of the ownership or possession or both of any land may, within sixty days from the commencement of the Kerala Land Reforms (Amendment) Act, 1979, apply to the Land Board or the Taluk Land Board, as the case may be, for such restoration.

(11) An application under sub-section (10) shall be in such form, shall contain such particulars and shall be verified in such manner as may be prescribed.

(12) On receipt of an application under sub-section (10), the Land Board or the Taluk Land Board, as the case may be, shall, after giving the applicant or any other person likely to be affected, an opportunity of being heard and after such inquiry as it deems necessary, by order, restore the ownership or possession, or both, as the case may be, of the land.".

13. *Amendment of section* 87.—In section 87 of the principal Act, the *Explanation* to sub-section (1) shall be numbered as *Explanation I* and after that *Explanation*, the following *Explanation* shall be inserted, namely:—

"*Explanation II*.—Where, after the date notified under section 83, any class of land specified in Schedule II has been converted into any other class of land specified in that Schedule or any land exempt under section 81 from the provisions of this Chapter is converted into any class of land not so exempt and in consequence thereof the total extent of land owned or held by a person exceeds the ceiling area, so much extent of land as is in excess of the ceiling area, shall be deemed to be land acquired after the said date.".

14. *Amendment of section* 98*A*.—To section 98A of the principal Act, the following *Explanation* shall be added, namely:—

"*Explanation*.—If any question arises as to whether an institution is an institution of a public nature for religious and charitable purposes maintained by a religious denomination or any section thereof, the question shall be decided by the Government and such decision shall be final.".

15. *Amendment of section* 101.—In section 101 of the principal Act in clause (c) of sub-section (2), the words "on its own motion or" shall be inserted at the beginning.

16. *Insertion of new section 108A.*—After section 108 of the principal Act, the following section shall be inserted, namely:—

"108A. *Section 11 of Code of Civil Procedure to apply to proceedings before Land Tribunal.*—The provisions of section 11 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall, so far as may be, apply to proceedings before the Land Tribunal.".

17. *Transitory provision.*—(1) Notwithstanding anything contained in any contract, or in any judgment, decree or order of any court or other authority, where the right, title and interest in respect of a holding referred to in *Explanation II* to section 27 of the principal Act as amended by this Act has been assigned in favour of a cultivating tenant and the purchase price and compensation or annuity payable in respect of such holding has been determined on the basis of contract rent calculated without deducting the interest, tax or cess referred to in the said *Explanation*, the Land Tribunal may, on application made by the cultivating tenant to whom such right, title and interest have been assigned or by his successor-in-interest within a period of one year from the commencement of this Act, by order, re-determine the purchase price and compensation or annuity payable in respect of such holding on the basis of contract rent calculated after deducting such interest, tax or cess.

(2) An application under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) No order shall be passed under sub-section (1) without giving any person affected thereby an opportunity of being heard.

(4) Where an order has been passed under sub-section (1),—

(a) any amount paid to a land owner or intermediary as compensation in excess of the amount payable under such order shall be refunded by the land owner and the intermediary, if any, to the Government within such period as may be prescribed and if the land owner or intermediary makes default in the payment of such amount on or before the date fixed for refund, the same shall be recoverable from him under the provisions of the Kerala Revenue Recovery Act, 1968, as if it were an arrear of public revenue due on land;

(b) any amount paid by the cultivating tenant in excess of the amount payable by him under the said order shall be refunded to him within such period as may be prescribed.

18. *Repeal and saving.*—(1) The Kerala Land Reforms (Amendment) Ordinance, 1979 (8 of 1979), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act, or, as the case may be, under the principal Act as amended by this Act.

# STATEMENT OF OBJECTS AND REASONS

Difficulty was experienced by the Government in implementing certain important provisions of the Kerala Land Reforms Act, 1963, in accordance with their true spirit and the intention of the Legislature, because of certain decisions of the Kerala High Court. Government have also received representations from a large number of tenants and other persons pointing out the hardship caused to them by the impact of the above judgments. In order to overcome such difficulties and hardship it was considered necessary to amend the Kerala Land Reforms Act suitably. It was also proposed to avail of this opportunity to make certain other amendments which were found necessary for the smooth and speedy implementation of the provisions of the Act. The succeeding paragraphs briefly explain the scope of the more important amendments.

2. It was brought to the notice of the Government that inspite of the provisions contained in section 74 of the Act, prohibiting the creation of tenancies after the 1st April, 1964, some persons have obtained leases of lands after that date and have effected substantial improvements on such lands. It was considered that it would be very hard if such lessees are evicted from their holdings. It was therefore necessary to incorporate a provision to give protection to such persons.

3. There was no uniformity in the procedure for recovery of arrears of rent under sections 26 and 73 of the Act. While under section 73 the arrears can be recovered under the provisions of the Revenue Recovery Act, section 26 provides for recovery in the prescribed manner. In order to achieve uniformity and for ensuring speedy recovery of the arrears, it was proposed to provide for the recovery of the arrears of rent referred to in section 26 also under the provisions of the Revenue Recovery Act.

4. The Kerala High Court in Vasudevan Namboodiri Vs. Mohammed Kutty (1975 KLT 727) has held that contract rent (for the purpose of calculating fair rent which is a proportion of contract rent) has to be taken as the rent stipulated in the deed of demise without deducting therefrom land tax and land cess which under the deed of demise the tenant is liable to pay and the interest due on the amount advanced to the transferor. Till the above decision, fair rent was being generally calculated on the basis of Michavarom alone, which is the balance amount after deducting the land cess and land tax which the tenant is liable to pay under the deed of demise and the interest on the amount advanced to the transferor by the tenant. The above decision has caused great hardship to the tenants as the purchase price determined on the basis of the contract rent calculated in accordance with the the above decision would be very much higher than the purchase price determined on the basis of the contract rent after excluding the interest on the amount advanced, land tax and land cess. Government were convinced that most of the tenants would not be able to pay such big amounts as purchase price. Therefore, it was considered necessary to provide that for the purpose

of determining fair rent, contract rent shall be the amount calculated after excluding interest on the amount advanced by the tenant and also land tax and land cess from the rent stipulated in the deed of demise.

5. In the event of demise of the person entitled to purchase price, value of encumbrance, maintenance or alimony under section 63 or sub-section(6) of section 80E, or to the compensation under section 72H, of the Act, such amounts have to be paid to his legal representatives. The process of determining the legal representatives on the basis of succession or heirship certificates is a time-consuming one. It was therefore, decided to empower the persons entitled to the amounts to nominate any member of his family to receive the same in the event of his death.

6. According to section 84(1) of the Act as amended by Act 17 of 1972, gifts made in favour of sons or daughters or sons or daughters of predeceased sons or daughters by persons owning or holding land in excess of the ceiling area are valid. The amendment, by Act 17 of 1972 came into force on 2-11-1972. In the judgment dated 5-11-1974 reported in 1975 KLT 171 (Narayanan Namboodiri v. Taluk Land Board) the Kerala High Court held that the consequences arising from the transferor's liability to surrender his excess land, the extent and identity of which are to be determined on the basis of the state of affairs existing on 1-1-1970, cannot be avoided by any mode of transfer even of the categories exempted under section 84. In view of the judgment all gifts in favour of sons and daughters and sons and daughters of predeceased sons and daughters, who were either major members or married minors on 1-1-1970, effected during the period between 1-1-1970 and 5-11-1974 have become invalid.

7. The intention of the amendment made in section 84 by Act 17 of 1972 was to exempt gifts made in favour of sons and daughters and sons and daughters of predeceased sons and daughters at any time prior to the vesting of the excess lands in Government under the orders of the Land Board or the Taluk Land Board.

8. According to the guidelines drawn up on the basis of the conclusions of the Chief Ministers' Conference on ceiling on agricultural holdings held on July 23, 1972, every major son should be treated as a separate unit for the purpose of application of ceiling and it should be ensured that there is no discrimination between major children governed by several systems of personal laws.

9. Persons governed by personal laws recognising joint family system which existed on 1-1-1970 get right to property by birth and the Act allows a member of such joint family to hold lands upto the ceiling limit even after 1-1-1970 as if a partition had been effected on 1-1-1970. Major children belonging to families not governed by the joint family system do not acquire Any right to the properties of their parents and there was no provision in the act to allow them any share. This had resulted indiscrimination between

persons governed by different personal laws by adversely affecting persons governed by personal laws under which no joint family system existed.

10. It was brought to the notice of Government that a large number of persons belonging to families not governed by the joint family system had made gifts in favour of sons and daughters and sons and daughters of predeceased sons and daughters after 1-1-1970 and before the date of the judgment under the belief that they were legally entitled to do so. The all India policy laid down in the guidelines drawn up on the basis of the Chief Ministers' Conference was against the discrimination based on different systems of personal laws. The 1972 Amendment Act was intended by the Legislature to effectuate the national policy guidelines. But it could not be given effect to due to the judgment dated 5-11-1974. It was therefore decided to insert a new sub-section (1A) to validate such gifts.

11. The *Explanation* to section 87 provides that where any land is exempted by or under section 81 and such exemption is in force on the date notified under section 83 such land shall, with effect from the date on which it ceases to be exempted, be deemed to be land acquired after the date notified under section 83. Interpreting the above *Explanation*, the Kerala High Court has held in Raghavan vs. State (1977 KLT 57) that the *Explanation* would not be attracted to a case where categories of land which are exempt on 1-1-1970 are converted into non-exempted categories subsequent to that date. Therefore, no excess land could be taken from a person holding excess land owing to conversion of exempted lands into non-exempted lands after 1-1-1970. It was therefore considered necessary to amend section 87 to overcome the above difficulty caused by the judgment and to enable the Government to take such excess land.

12. Transitory provisions enabling the Land Tribunal to refix the purchase price and compensation in accordance with the amendment to section 27 was also considered necessary.

13. Since the Legislative Assembly was not in session and the proposal had to be given effect to immediately the Kerala Land Reform (Amendment) Ordinance, 1979 was promulgated by the Governor on the 4th day of July, 1979 and published as Ordinance 8 of 1979.

14. The Bill seeks to replace the Ordinance by an Act of the State Legislature.

## FINANCIAL MEMORANDUM

New sub-section (10) proposed to be inserted in section 85 of the Kerala Land Reforms Act by clause 12 of the Bill seeks to provide for the restoration of the ownership or possession or both of any land to any person who is entitled to such restoration by virtue of the provisions of sub-section (1A) of section 84

and applies for the same within sixty days from the commencement of the Amendment Act. Clause 17 of the Bill seeks to provide for reopening of settled cases relating to the assignment of the right, title and interest in respect of any holding, on application by the cultivating tenant within one year from the commencement of the Amendment Act. The increase in work load on account of the implementation of the above provisions may necessitate the extension of the period of continuance of all the Taluk Land Boards in the State and the Land Tribunals in Malabar area for one year. The estimated expenditure in this account is Rs. 1.83 crores approximately.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The provisos to section 63 (7), section 72H (8) and section 80E (6) proposed to be inserted by clause 7, clause 8 and clause 10 of the Bill empower the Government to make rules under which persons entitled to receive the amounts due to them under the above provisions may nominate members of their families to receive the amounts.

Sub-section (11) of section 85 proposed to be inserted by clause 12 of the Bill empowers the Government to prescribe the form of application to be made by a person entitled for restoration of the ownership or possession of land, under sub-section (10), the particulars to be contained therein and the manner of verification of the same.

Under sub-clause (2) of clause 17 of the Bill, rules have to be made prescribing the form in which an application for redetermination of the purchase price and compensation or annuity may be preferred before the Land Tribunal under sub-clause (1) of the said clause.

The matters in respect of which rules may be made are matters of administrative or routine nature or matters of detail. The delegation of legislative power is thus of a normal character.

BABY JOHN

Reg. No. KL/TV/12

# KERALA GAZETTE

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. XXIV] Trivandrum, Saturday, 22nd September 1979 / 31st Bhadra 1901 [No. 680

GOVERNMENT OF KERALA

**Industries (F) Department**

ORDERS

No. G. O. (P) 310|79|ID. *Dated, Trivandrum, 22nd August* 1979.

**S. R. O. No. 1077/79.**—In exercise of the powers conferred by section 3 of the essential Commodities Act, 1955 (Central Act 10 of 1955) read with the Government of India, Ministry of Industry and Civil Supplies (Department of Civil Supplies and Co-operation) Orders No. S. O. 681 (E) dated the 30th November, 1974 published in the Gazette of India Extraordinary, Part II, Section 3, sub-section (ii) dated the 30th November, 1974, the Government of Kerala hereby make the following order to amend the Kerala Cement Distribution (Licensing and Regulation) Order, 1974 issued in G. O. (P) 52|74|ID dated the 16th March, 1974 and published in the Kerala Gazette Extraordinary No. 292 dated the 16th March, 1974, namely:—

1. *Short title and commencement*:—

(a) This order may be called the Kerala Cement Distribution (Licensing and Regulation) Third Amendment Order, 1979.

(b) This order shall come into force at once.

33/3448/MC

2. *Amendments.*—In the Kerala Cement Distribution (Licensing and Regulation) Order, 1974, for clauses 18 and 19, the following clauses shall be substituted, namely:—

"18. *Application for purchase of cement:*—

(a) Any person or institution desiring to purchase cement for construction or repairs shall make an application in form 'E' affixing court-fee stamp of the value of Rupees two to the authority empowered to issue permits under clause 19 of this order.

(b) Every application under sub-clause (a) shall be accompanied by:

(i) a recommendation of the Executive Officer of the Panchayat or the Commissioner of the Municipality or the Corporation concerned if the cement applied for is five bags or less;

(ii) a certificate from an Engineer not below the rank of an Assistant Engineer in Government Service or in any Quasi-Government Organisation who possess a degree or diploma in Engineering as to the quantity of cement required for the construction|repair, if the cement applied for is more than five bags but upto hundred bags;

(iii) a plan approved by an Engineer not below the rank of an Assistant Engineer in Government service or in any Quasi-Government Organisation and a copy of the licence issued by the Panchayat, Municipality or Corporation, as the case may be, should accompany the application, if the cement applied for is more than hundred bags.

(b) Any person or institution desiring to purchase cement for use as raw material shall make an application in Form 'E' affixing court fee stamp of the value of Rupees Two to the General Manager of the District Industries Centre concerned who will forward the same with his recommendation to the Director of Industries and Commerce or the District Collectors or Tahsildars, as the case may be. Such applications shall be given priority by the authority issuing permits.

(c) If any additional quantity of cement is required for completing the work undertaken, the applicant shall submit an additional application along with a declaration regarding utilisation, duly signed by applicant, in respect of the quantity of the cement already allotted to him for the work".

"19. *Issue of Permits.*—No stockist shall sell cement to any person or institution or other stockists except under and in accordance with the terms and conditions of permits issued in Form 'D' by the Tahsildars, the District Collectors, and the Director of Industries and Commerce, as specified below:

| | | |
|---|---|---|
| Upto 100 bags | : | Tahsildars. |
| Between 100 bags and 5000 bags (250 tonnes) | : | District Collectors. |
| Above 5000 bags (250 tonnes) | : | Director of Industries and Commerce. |

By order of the Governor,

J. LALITHAMBIKA,
*Additional Secretary.*

**Explanatory Note**

(This does not form part of the Order but is intended to indicate its general purport).

There are complaints from the general public and other consumers that there are inherent defects in the system of issue of permits for cement and delay in this matter. The essential step for the effective and easy system of issue of permits is to empower the Tahsildars, District Collectors and Director of Industries and Commerce. This order is aimed to liberalise the procedure for issue of permits for cement in an equitable manner.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1979

©
Government of Kerala
1979

Reg. No. KL/TV/12

# KERALA GAZETTE

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. XXIV] Trivandrum, Saturday, 22nd September 1979 / 31st Bhadra 1901 (Saka) [No 677

NOTICE

UNDER SECTION 9 (5) OF THE KERALA LAND ACQUISITION ACT, 1961
(ACT 21 OF 1962)

No. A2-425/79. *19th September 1979.*

Notice is hereby given that the Government intend to take possession of the lands mentioned in the list below, which are required for a public purpose under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962). All persons interested in the lands are required to appear in person or by authorised agent on the date, time and place noted below and to state/put in a statement in writing signed by themselves or their agents showing the nature of their respective interests in the lands and the amount and particulars of their claim to compensation for such interests in the lands and their objections, if any, to the measurements made under section 8 of the Act.

*Note.*—If the persons interested refuse to make a claim to compensation or omit without sufficient reasons; to make such claim, the amount to be awarded by the Court, in the event of a reference being made to it on application made by them shall in no case exceed the amount awarded by the Collector under section 11 of the Act.

താഴെ കൊടുത്തിരിക്കുന്ന ലിസ്റ്റിൽ പറഞ്ഞിട്ടുള്ളതും 1961-ലെ കേരളാ സ്ഥലമെടുപ്പ് ആക്ട് (1962-ലെ 21-ാം ആക്ട്) പ്രകാരം ഒരു പൊതുകാര്യത്തിന് ആവശ്യമായിട്ടുള്ളതുമായ ഭൂമി കൈവശപ്പെടുത്തുവാൻ ഗവൺമെന്റ് ഉദ്ദേശിക്കുന്നുവെന്ന് ഇതിനാൽ നോട്ടീസ് നൽകിയിരിക്കുന്നു. പ്രസ്തുത ഭൂമിയിൽ അവകാശബന്ധമുള്ള എല്ലാപേരും നേരിട്ടോ അധികൃത ഏജന്റ് മൂലമോ താഴെപറയുന്ന തീയതിയിലും സ്ഥലത്തും സമയത്തും ഹാജരാകുകയും

ഭൂമിയിൽ അവരോരോരുത്തർക്കുമുള്ള അവകാശബന്ധങ്ങളുടെ സ്വഭാവവും ഭൂമിയിൽ അങ്ങനെയുള്ള അവകാശബന്ധങ്ങൾ സംബന്ധിച്ചിടത്തോളം നഷ്ട പ്രതിഫലത്തിന് അവർക്കുള്ള തേർച്ചയുടെ തുകയും വിവരങ്ങളും ആക്റ്റ് 9–ാം വകുപ്പു പ്രകാരം എടുത്തിട്ടുള്ള അളവു സംബന്ധിച്ച് വല്ല ആക്ഷേപവുമുണ്ടെങ്കിൽ അതും ഏതാണെന്ന് കാണിച്ചുകൊണ്ട് പ്രസ്താവന ചെയ്യുകയും, അവരോ അവരുടെ ഏജന്റുമാരോ എഴുതി ഒപ്പിട്ട ഒരു സ്റ്റേറ്റുമെന്റ് സമർപ്പിക്കുകയും ചെയ്യണമെന്ന് അവരോട് ആവശ്യപ്പെടുന്നു.

കുറിപ്പ്.— അവകാശബന്ധമുള്ളവർ നഷ്ടപ്രതിഫലത്തിന് തേർച്ചചെയ്യാൻ കൂട്ടാക്കാതിരിക്കുകയോ, മതിയായ കാരണമില്ലാതെ അങ്ങനെ തേർച്ച ചെയ്യാൻ വീഴ്ച ചെയ്യുകയോ ചെയ്യുന്നപക്ഷം അവരുടെ അപേക്ഷയിൻമേൽ കോടതിക്ക് റഫറൻസ് അയയ്ക്കുന്ന സംഗതിയിൽ കോടതി വിധിച്ചുകൊടുക്കേണ്ട തുക യാതൊരു സംഗതിയിലും ആക്റ്റ് 11–ാം വകുപ്പുപ്രകാരം കളക്ടർ വിധിച്ചുകൊടുക്കുന്ന തുകയിൽ കവിയാൻ പാടില്ലാത്തതാകുന്നു.

Date, time and place of appearance—On 16-10-1979 at 10 a. m. before the Special Tahsildar, L. A., N. H., Trichur at Kizhakke Chalakudy Village Office

**Particulars of Lands**

District—Trichur

Taluk—Mukundapuram

Village—Perambra

| *Survey No.* | *Description* | *Extent in hectare* |
|---|---|---|
| 125/10-25 | Wet | 0.0942 |
| 125/12 | do. | 0.0592 |
| 125/13 | do. | 0.0390 |
| 125/18 | do. | 0.0381 |
| 126/1-16 | do. | 0.1225 |
| 126/2 | do. | 0.0194 |
| 126/3-18 | do. | 0.0074 |
| 126/4-19 | do. | 0.0047 |
| 126/5-20 | do. | 0.0013 |
| 126/7-21 | do. | 0.0468 |
| 126/8-23 | do. | 0 1588 |
| 126/9-24 | do. | 0.1232 |
| 131/1-5 | do. | 0 0220 |
| | Total | 0.7366 |

(Sd.)
*Special Tahsildar (LA) N. H., Trichur-3.*

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1979.

will be considered by Government. Objections and suggestions, if any shall be addressed to the Special Secretary to Government, Labour and Housing (E) Department, Government Secretariat, Trivandrum-1.

AMENDMENT

In part I of the Schedule to the said Act, the following shall be added as item No. namely:—

"41. Employment in Units engaged in the manufacture and sale of Umbrellas".

By order of the Governor,

C. P. NAIR,
*Special Secretary.*

**Explanatory Note**

(This does not form part of the notification, but is intended to indicate its general purport).

This notification is intended to include the "Employment in Units engaged in the manufacture and sale of Umbrellas" in part I of the Schedule to the Minimum Wages Act, 1948, so that steps may be taken for the fixation of minimum rates of wages in respect of the said employment.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1979.